

Senate Engrossed House Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

CHAPTER 164

# **HOUSE BILL 2154**

AN ACT

AMENDING SECTIONS 11-823 AND 11-824, ARIZONA REVISED STATUTES; RELATING TO  
COUNTY PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-823, Arizona Revised Statutes, is amended to  
3 read:

4 11-823. Submission of county plan to board; hearing; notice

5 A. After the commission recommends the county plan or any section of  
6 the plan, the plan shall be submitted to the board of supervisors for its  
7 consideration and official action.

8 B. After the board considers the commission's recommendation and any  
9 recommendations from the review required under section 11-806, subsection H,  
10 the board shall hold at least one public hearing at which residents of the  
11 county shall be heard concerning the matters contained in the plan. At least  
12 fifteen days notice of the hearing shall be given by one publication in a  
13 newspaper of general circulation in the county seat. The board shall  
14 consider protests and objections to the plan and may change or alter any  
15 portion of the county plan including the zoning regulations. However, before  
16 any change is made, EXCEPT FOR MAJOR PLAN AMENDMENTS AND AMENDMENTS TO  
17 EXISTING ZONING REGULATIONS, that portion of the plan proposed to be changed  
18 shall be re-referred to the commission for their recommendation, which may be  
19 accepted or rejected by the board.

20 Sec. 2. Section 11-824, Arizona Revised Statutes, is amended to read:

21 11-824. Adoption and amendment of county plan by board of  
22 supervisors; expiration and readoption

23 A. The board of supervisors may adopt the county comprehensive plan as  
24 a whole, or by successive actions adopt separate parts of the plan. The  
25 adoption or readoption of the comprehensive plan or any amendment to the plan  
26 shall be by resolution of the board. If the motion to adopt or readopt the  
27 plan or an amendment to the plan fails to pass, the board may reconsider the  
28 motion in any manner allowed by the board's rules of procedure, but any  
29 subsequent motion for the adoption or readoption of the plan or a major  
30 amendment to the plan must be approved by an affirmative vote of at least  
31 two-thirds of the members of the board.

32 B. A county comprehensive plan, with any amendments, is effective for  
33 up to ten years from the date the plan was initially adopted or until the  
34 plan is readopted or a new plan is adopted pursuant to this subsection and  
35 becomes effective. On or before the tenth anniversary of the plan's most  
36 recent adoption, the board shall either readopt the existing plan for an  
37 additional term of up to ten years or shall adopt a new county plan as  
38 provided by this article.

39 C. The adoption or readoption of, or a major amendment to, the county  
40 comprehensive plan shall be approved by the affirmative vote of at least  
41 two-thirds of the members of the board. All major amendments proposed for  
42 adoption to the comprehensive plan by the board shall be presented at a  
43 single public hearing during the calendar year the proposal is made. AT THE  
44 PUBLIC HEARING, THE BOARD MAY REFER A MAJOR AMENDMENT BACK TO THE PLANNING  
45 AND ZONING COMMISSION FOR CONSIDERATION AT A PUBLIC HEARING AND

1 RECOMMENDATION OF ANY NEW PROPOSED CHANGES. The adoption or readoption of a  
2 county plan, and any major amendment to a county plan, shall not be enacted  
3 as an emergency measure and is subject to referendum as provided by article  
4 IV, part 1, section 1, subsection (8), Constitution of Arizona, and title 19,  
5 chapter 1, article 4. If the county's area of jurisdiction includes property  
6 in the high noise or accident potential zone of a military airport or  
7 ancillary military facility as defined in section 28-8461, the board shall  
8 send notice of the approval, adoption or readoption of the comprehensive plan  
9 or major amendment to the comprehensive plan to the attorney general by  
10 certified mail, return receipt requested, within three business days after  
11 the approval, adoption or readoption. If the attorney general determines the  
12 approval, adoption or readoption of the comprehensive plan or major amendment  
13 to the comprehensive plan is not in compliance with section 28-8481,  
14 subsection J, the attorney general shall notify the county by certified mail,  
15 return receipt requested, of the determination of noncompliance. The board  
16 shall receive the notice from the attorney general within twenty-five days  
17 after the notice from the board to the attorney general is mailed pursuant to  
18 this subsection. The effective date of any approval, adoption or readoption  
19 of, or major amendment to, the comprehensive plan shall be thirty days after  
20 the board's receipt of the attorney general's determination of noncompliance.  
21 Within thirty days after the receipt of a determination of noncompliance by  
22 the attorney general as prescribed by this section, the board shall  
23 reconsider any approval, adoption or readoption of, or major amendment to,  
24 the comprehensive plan that impacts property in the high noise or accident  
25 potential zone of a military airport or ancillary military facility as  
26 defined in section 28-8461. If the board reaffirms a prior action subject to  
27 an attorney general's determination of noncompliance pursuant to this  
28 section, the attorney general may institute a civil action pursuant to  
29 section 28-8481, subsection L. If the board timely sends notice pursuant to  
30 this subsection and the attorney general fails to timely notify the board of  
31 a determination of noncompliance, the comprehensive plan or major amendment  
32 to the comprehensive plan shall be deemed to comply with section 28-8481,  
33 subsection J. If the board fails to adopt or readopt the plan, the current  
34 plan remains in effect until a new plan is adopted. The board shall either  
35 reconsider the proposed plan or consider a revised plan within one year and  
36 shall continue to do so until one is adopted. All subsequent considerations  
37 of a new or revised plan must comply with the procedures prescribed by this  
38 article. For the purposes of this subsection, "major amendment" means a  
39 substantial alteration of the county's land use mixture or balance as  
40 established in the county's existing comprehensive plan land use element for  
41 that area of the county. The county's comprehensive plan shall define the  
42 criteria to determine if a proposed amendment to the comprehensive plan  
43 effects a substantial alteration of the county's land use mixture or balance  
44 as established in the county's existing comprehensive plan land use element  
45 for that area of the county.

1 D. ~~Upon~~ ON adoption or readoption, the plan, or any part of the plan,  
2 shall be the official guide for the development of the area of jurisdiction.

3 E. Any change, amendment, extension or addition of the county plan may  
4 be made only in accordance with ~~the provisions of~~ this chapter.

5 F. In applying an open space element or a growth element of a  
6 comprehensive plan a county shall not designate private or state land as open  
7 space, recreation, conservation or agriculture unless the county receives the  
8 written consent of the landowner or provides an alternative, economically  
9 viable designation in the comprehensive plan or zoning ordinance, allowing at  
10 least one residential dwelling per acre. If the landowner is the prevailing  
11 party in any action brought to enforce this subsection, a court shall award  
12 fees and other expenses to the landowner. Each county shall incorporate this  
13 subsection into its comprehensive plan and provide a process for a landowner  
14 to resolve discrepancies relating to this subsection.

APPROVED BY THE GOVERNOR MAY 7, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2008.